Changes Sought to

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Early last April, Sen. James L. Buckley (Con.-R-N.Y.) received from one of his aides a March 31 Parade magazine article entitled "How Secret School Records Can Hurt Your Child."

Buckley had been concerned for some time about ways in which educators were usurping parents' authority. In this case, the problem involved school systems that compiled bulky dossiers on individual students and shared the contents—incuding ill-founded teachers' comments—with police or other otusiders but not with the students' parents.

"What Parade did," Buckley recalled recently, "was to show the scale of the abuses, to give us some sort of dimension . . ." He told his aide, John Kwapisz to delve further into the problem and its possible remedies.

When Kwapisz reported back later in the month with the results of his research Buckley gave him a go-ahead to draft some legislation.

Thus begins the tale of the Buckley Amendment, which became the law of the land in August ane, this fall, touched off one of education's hottest controversies. The tale involves a private foundation, an adept public relations woman, a fledgling citizens' group anxious to build membership, the ubiquitous school busing issue, a belated but intense lobbying effort, an odd political alliance of conservatives and civil-rights liberals, and a dash or two of irony.

The tale is still unfolding. This week, Buckley and Sen. Claiborne Pell (D-R.I.) plan to amend the amendment with a package of "legislative remediees."

Briefly, the Buckley Amendment—formally, the Family Educational Rights and Privacy Act of 1974—grants parents the right to inspect all records that schools maintain on their offspring, and to challenge any entries they believe are inaccurate or misleading.

Parents must also consent in writing before schools can release any personal information about their children to outsiders.

Most controversial has been the impact of this provision: once students reach 18 or enter college, they assume these rights themselves in their parents' stead.

As Kwapisz followed up on the Parade article for his boss last April, he contacted two major sources that the writer, Diane Divoky, had cited: the National Committee for Citizens in Education, and the Russell Sage Foundation.

Divoky had included a generous plug for Citizens in Education, listing its Columbia, Md., address for parents wanting advice or legal ammunition in dealing with their local schools.

This was understandable, for Citizens in Education itself—through Florence Shelley, who was handling its public relations out of New York City at the time—sold Parade's editors on the article in the first place and then invited Divoky to write it. The group's subsequent newsletter referred to it as "our article".

Divoky was one of many whom Carl Marburger, former New Jersey education chief, and other Citizens in Education leaders consulted during the summer and fall of 1973. Launched with a $450,000 Ford Foundation grant to succeed the late Agnes Meyer's National Committee for Support of the Public Schools, they were searching for issues with which to stir public interest and attract a large grass-roots membership.

Kwapisz also got ready cooperation from the Russell Sage foundation, which had sponsored development and distribution of specific guidelines on student record-keeping to school systems all over the country.

Buckley, meanwhile, had spotted the vehicle for his amendment: a massive elementary and secondary education aid bill. The measure had been reported out of Senate committee in late March, the same week the House passed its version, and would soon hit the Senate floor.

Higher education groups and other critics have complained because Buckley introduced his language as a floor amendment to the education bill, rather than as separate legislation, which would have been referred to Pell's Senate Education Subcommittee. Hearings before that panel, these critics said, would have improved its wording, clarified its intended effects, and avoided confusion.

Buckley and his staff disagree. The senator said recently he did not consider the issue so complex as to require the "full majesty" of Congress's legislative machinery.

Moreover, Buckley said, he felt at the time that his measure "would have been buried" had it been referred to Pell's subcommittee. As Kwapisz once put it this fall, the Pell panel seemed more inclined to represent the "educational establishment" than parents and students—a view Pell's staff, needless to say, does not share.

Law on Student File

Associated Press

Sen. James L. Buckley, author of privacy amendment.

When Buckley introduced his amendment on the Senate floor May 9 with a blast at the "elitist arrogance" of educators, it received little notice. Most people concerned with the big education bills were preoccupied with other issues, such as amendments to curb busing for school desegregation.

During floor debate May 14, Buckley's amendment drew more attention. There, it underwent the major deletion—the section which would have required parents' consent before children could be given psychological tests, quizzed about their personal life, or enrolled in any school program designed to influence behavior or values. Otherwise, the Buckley Amendment was adopted by voice vote.

On May 31, the first real alarm was sounded. John F. Morse, government relations director of the American Council on Education, wrote the principal Senate and House conferees that the Buckley Amendment appeared to contain numerous "booby traps," involving the rights it accorded to 18-year-olds. He urged conferees to drop it from the bill so it could be considered separately later.

College lobbyists did not press their case, however, as the conference droned on during June and early July. The Buckley Amendment, meanwhile, was drawing together unlikety tlies: Reps. Shirley A. Chisholm (D-N.Y.), an outspoken liberal, William A. Steiger (R-Wis.), a moderate, and John M. Ashbrook (R-Ohio), a conservative.

It was the busing issue, several conferees agree, that ultimately kept the Buckley Amendment in the bill. A compromise on busing was essential, yet it could alienate both those lawmakers favoring a total busing ban and those against any restrictions.

One senator who opposed the conferees' busing compromise as well as some other features of the bill, was Buckley himself. And so, ironically, while praising his own amendment as "a cornerstone of the protection of the rights and privacy of parents and students," he voted on July 24 against the conference report that contained it.

When President Ford signed the education bill into law Aug. 21, in the wake of Nixon's departure, he said he was "pleased" with its Buckley Amendment provisions.

In the weeks that followed, however, the colleges and their Washington representatives began to awaken fully to the potential campus impact One of their major concerns was that students would be allowed to inspect, in their personal files, letters of recommendation and other communications that the colleges had promised to keep in confidence. A lesser worry—one of many—was that colleges could not mail a student's grades home to his parents

Inspection

without the student's own written consent.

On Oct. 8, the American Council on Education and six other higher education groups followed up by petitioning Congress for a delay to allow time for hearings and possible legislative changes. The colleges by then were keenly aware that failure to comply with what many considered a confusing, ambiguous law could cost them their federal aid.

Further fueling their worries, H. Reed Saunders of the U.S. Office of Education was warning that regulations and guidelines for carrying out the Buckley Amendment could not possibly be in effect by Nov. 19.

Citizens in Education lashed back. In an Oct. 24 press release, it claimed the higher education groups were more concerned with "the sanctity of their filing system" than with protecting student rights. Delaying the law, in its view, could weaken it.

With college clamor mounting, Pell's office announced Nov. 14 that he was trying to reach accord with Buckley on some changes to clarify the amendment. Otherwise, Pell would likely move to delay its effective date. With Buckley traveling abroad, Kwapisz had been saying his boss would support certain changes—such as protecting confidential letters in college files—but would oppose any delay.

Then on Nov. 18, eve of the law's effective date Health, Education and Welfare Secretary Casper W. Weinberger reiterated the administration's firm support for the Buckley Amendment and announced that HEW would press ahead promptly with writing and publishing regulations for it.

Then came another ironic twist.

The Washington groups representing elementary and secondary schools had been largely neutral or opposed to delaying the law. The National School Boards Association, for one, thought its members would enjoy some leeway in interpreting the Buckley Amendment to fit local situations.

But the prospect of HEW interpreting it its own way in specific regulations was another matter. The school boards group swung toward favoring a limited delay pending congressional hearings.

Buckley, back in town just before Thanksgiving, expressed wonder at the intensity of the colleges' protests, most of which he considered red herrings. Nonetheless, when he and Pell finally got together last Tuesday, they agreed to co-sponsor changes to "clarify certain ambiguities" in the law—though not to delay it.

The exact wording of these remedies is still being worked out this weekend. One is expected to bar college students' inspection of confidential communications already in their files when the law took effect. Another would allow students to waive the right to inspect confidential communications that might be added to their files in the future. A third would protect from college students' eyes the family financial statements filed by their parents in applying for scholarship aid.

Buckley and Pell are expected to try to attach their remedies to a libraries bill that should be before the Senate about mid-week. They will do so—once again—with a floor amendment.